

#### IV. REMARKS

The summary of the invention has been amended to conform to idiomatic English. Since it no longer is a copy of the claims, it is submitted that it is no longer objectionable.

Claims 4 and 15 have been amended by deleting "during" and substituting "at". This better conforms the claims to page 5, line 17, of the description.

The Examiner has again rejected claims 1-2, and 12-14 under 35 U.S.C. 101. In brief, he states that the claims are directed to software *per se* which fails to show linkage between the software and hardware so as to permit the software to be realized. He cites *Diamond, Comr. Pats. v. Diehr and Lutton*, 209 USPQ 1, 8, as support for this rejection.

First, the claims in question in *Dier* were process claims. In contradistinction, claim 1 recites "...data reporting system ...document processing apparatus...embodied on a non-transitory computer readable medium in document processing apparatus... a system manager...platform controller...and a user interface." Claim 12 recites similar limitations. It is respectfully submitted that these limitations are physical articles which are patentable under 35 U.S.C. 101.

Second, the method claims in *Diehr* were held allowable by the Supreme Court. Thus, system claims 1-2 and 12-14, are even more allowable since they are inherently more tangible.

Third, nothing in the opinion states anything about needing a linkage between software and hardware. The main point of the opinion seems to be that what was sought to be patented was a method for curing synthetic rubber and not a mathematical formula (see page 8, hn. 6). If the Examiner is aware of any authority for the proposition of a required linkage between software and hardware, he is requested to provide it.

It is respectfully submitted that for all of the above reasons, *Diehr* is irrelevant.

More to the point is the recent case of *Research Corporation Technologies Inc. v. Microsoft Corp.*, CAFC, December 8, 2010, 97 USPQ2d 1274, 1280. This case, which construed *Bilski v. Kappos*, 95 USPQ 2d 1001, held that to be found unpatentable under 35 U.S.C. 101, an inventions abstractness must "exhibit itself so manifestly as to override the broad statutory categories of patent eligibility". The court found nothing abstract about the claims in question. It

further pointed out that the claims recited "a...film", "a...printer", "a memory" and "display devices", which confirms the holding that the "invention is not abstract". Similarly, It is submitted that the present claim limitations of "system", "non-transitory computer readable medium", and "user interface" confirms that the present claims are anything but manifestly abstract.

In the "Response to Arguments" section of the last Office Action, the Examiner states that the software needs hardware to work and that Applicant has amended "similar in concept" by reciting hardware. Applicants submit that if this is true, then the rejection under 35 USC 101 should be withdrawn. The Examiner further states that Applicant is aware of the requirement of linkage and amended accordingly. Again, if this is true, then the rejection should be withdrawn. In fact, the claims were amended so that they are not "manifestly abstract" as required by *Research Technologies, supra*. This is the only requirement required by the CAFC. Amending the claims is not an admission of a linkage requirement. Again, the Examiner is asked to provide a citation for such a requirement.

Thus the rejection under 35 U.S.C. 101 should be withdrawn.

Applicants respectfully submit that claims 1, 2 and 15-19 are not obvious by Fujiwara (US 6,301,710, "Fujiwara") in view of Tsumara (US 5,842,023, "Tsumara") under 35 USC 103(a).

Claim 1 recites "...a system manager; and at least one platform controller coupled to the system manager...". The Examiner has cited Figure 2, column 1, lines 29-31, and Fig.4, col. 6, ll. 15-16 and 22-24, for this feature. While programs are disclosed which control computer systems, there is no disclosure of a system manager or a platform controller.

In the Response, the Examiner argues that Applicant is expecting the same terminology, which is very rare. If the terminologies are the same, the Examiner is requested to provide a reference, e.g. a dictionary, which discloses this equivalence.

Claim 1 further recites "...the system manager configured to: collect attribute data including copyright data pertaining to software from each platform controller...". The Examiner has cited Figure 4 and column 6, lines 15-16 and 22-24, for this feature. It is respectfully submitted that the claimed feature is not disclosed since the disclosed "possess" by Fujiwara is not the same as the recited "collect". It is respectfully submitted that "collect" means to gather together, while "possess" means to have a property or attribute. See the previously enclosed definitions from

*Websters New Twentieth Century Dictionary of the English Language*, 2<sup>nd</sup> edition, Simon & Schuster. Thus the words are not equivalents.

In the response, the Examiner states that one of the dictionary definitions of "possess" is "acquire". His is requested to provide such a definition. The Examiner also states that "I strongly feel that 'collect' means 'acquire'". It is respectfully submitted that the Examiner's feelings are irrelevant. The Examiner also states that the recitation of intended use must result in a structural difference to distinguish over the prior art. It is submitted that the recitation of "configured to" is a structural recitation.

Claim 1 also recites "...a user interface connected to the system manager for displaying the collected attribute data in the list to a user." The Examiner has cited Figure 3; and column 6, lines 51-53. However, all that is disclosed therein is that details of the individual software programs included in client registries 355 can be viewed and accessed. This is not the same as the "list" of "copyright data" that is collected recognized and processed as claimed by Applicant.

In the last paragraph on page 5 the Examiner concedes that "Fujiwara does not explicitly teach, recognize the copyright data in the attribute data". However, he cites Tsumara (Figures 5, column 3, lines 14-26, and box 15) as disclosing this feature. While a copyright information manager 5 is disclosed, which manager, along with other elements, controls the supply of information, nothing is disclosed about the presently claimed "process the copyright data into a list of copyright data for the system". Thus, even if Fujiwara and Tsumara are combined, the result is not the claimed invention.

At least for these reasons, Applicants submit that the combination of Fujiwara and Tsumara does not make obvious independent claim 1 and dependent claims 2 and 15-19.

Regarding claim 15, which recites collecting attribute data from the platform controller at power on, the cited portions of Fujiwara (Figure 1; column 6, lines 15-17 and 22-24) disclose a plurality of client systems, which possess selected attributes. However, they fail to disclose collecting attribute data at power on as claimed. For this additional reason, claim 15 is patentable.

Applicants respectfully submit that claim 20 is patentable over Fujiwara in view of Tsumara and Saito.

Saito also does not disclose the above-discussed limitations. Thus, the combination of Fujiwara, Teare and Saito fails to result in the claimed limitations.

Therefore, the combination of Fujiwara, Teare and Saito fails to render claim 20 unpatentable.

Applicants respectfully submit that claims 3-7, 9-13 and 21 are patentable over the combination of Fujiwara and Teare et al. (US 6,151,624, "Teare") under 35 USC 103(a).

The combination of Fujiwara and Teare fails to disclose or suggest the recited "collecting" step of claims 3 and 12. While Teare does disclose "polling", this is not the same as "collecting". In particular, as the Examiner states in the first paragraph on page 18, "polling" means to take a count, while, as explained above, "collecting" means to gather together. In the Advisory Action the Examiner states that the terms are equivalent given their broadest reasonable interpretation. However, this must be consistent with the disclosure and how one of ordinary skill in the art would interpret the terms, see MPEP 2111 and *In re Cartright*, 49 USPQ2d 1464, 1468. Here, the Examiner is expanding the terms beyond their reasonable meaning. Further, since the objects of Fujiwara and Teare are so different, it is not obvious to combine them. This is especially true since they involve obviously complex arts, see *KSR International Co. v. Teleflex Inc.*, 82 USPQ 2d 1385, 1396.

Thus claims 3 and 12 are patentable.

Claim 4 recites polling at power on. The Examiner cites Teare, column 5, lines 9-11. However, the quoted language discloses periodic polling. It discloses nothing about what happens at power on. For this additional reason, claim 4 is patentable.

Regarding claim 5, the Examiner cites Teare, column 18, lines 21-24. However, absolutely nothing is disclosed therein about the claimed polling of at least one of the at least two platform controls when polling is initiated. For this additional reason, claim 5 is patentable.

Regarding claim 6, the cited portions of Fujiwara disclose what attributes browser program 330 may have (col. 6, ll. 15-16) and what configuration files 340 may include (col. 6, ll., 22-24). These portions have no disclosure of collecting copyright information as presently claimed. For this additional reason, claimed 6 is patentable.

Regarding claim 7, this cited portions of Fujiwara (Figure 9; column 10, lines 3-6) mention license information. However, there is no disclosure of collecting license information as presently claimed. For this additional reason, claim 7 is patentable.

Regarding claim 9, the cited portions of Fujiwara (Figure 3; column 6, lines 51-53) disclose displaying. However there is no disclosure of the claimed automatically displaying. For this additional reason, claim 9 is patentable.

Regarding claim 10, the cited portions of Fujiwara (Figure 3; column 6, lines 51-53) disclose displaying. However, there is no disclosure of the claimed manually displaying. For this additional reason, claim 10 is patentable.

Regarding claim 11, the cited portions of Fujiwara (Figure 9, column 10, lines 20-23) disclose what miscellaneous information 918 can include. However the cited portion fails to disclose displaying only non-copyright data as claimed. For this additional reason, claim 11 is patentable.

Therefore, the combination of Fujiwara and Teare fails to render claims 3-7, 9-13, and 21 unpatentable.

Applicants respectfully submit that claims 8 and 14 are patentable over the combination of Fujiwara, Teare and Saito et al. (US 2002/073035, "Saito") under 35 USC 103(a).

The combination of Fujiwara, Teare and Saito fails to disclose or suggest the above-discussed and claimed limitations.

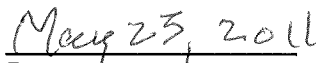
Therefore, the combination of Fujiwara, Teare and Saito fails to render claims 8 and 14 unpatentable.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 24-0037.

Respectfully submitted,

  
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